

1 retaining walls.

2 Q Mr. Coppola, have you testified in
3 court before as an expert?

4 A Yes.

5 Q Within the State of New York?

6 A Yes, and one in Connecticut.

7 Q Could you just tell the Court,
8 approximately, how many times you testified as an
9 expert?

10 A Five or six times.

11 Q On what subject did you testify?

12 A A couple of cases where there was a
13 water intrusion from a neighbor onto the other
14 neighbor. One was a retaining wall and the other
15 was-- I think were foundation walls within the
16 building, cracked foundation walls.

17 Q During those occasions where you
18 testified in court, were you qualified as an
19 engineer expert?

20 A Yes.

21 MRS. MULLINS: I ask that the Court
22 qualify Mr. Coppola as an expert in the
23 field of engineering at this time.

24 THE COURT: Do you wish to make any
25 inquiry?

HHS: FUDGE: He, thank you, thank

Honor.

THE COURT: I find that Mr. Coppola is qualified as an expert witness in the area of engineering, listen to the next question.

Q Did there come a time that you were requested to view a wall that is the subject of this case?

A Yes.

Q Did you inspect the wall?

A Yes, I did this November 15th, this year.

Q Were you with anyone when you made that inspection?

A Mr. Annunziata who hired our firm to do it.

Q What did you observe?

A Well, I observed a concrete block wall resting on a stone wall from the Huguenot Street property. Then we walked around to the back and drove around and then I saw the stone wall approximately ten to twelve feet high topped by a concrete block wall approximately four feet high and I found that the concrete block wall in the

1 and supervision of retaining walls, where these
2 type of tie backs are used, is there always some
3 mechanism that this rod ties into?

4 A You mean always?

5 Q Yes.

6 A I don't suspect that that wall was
7 put in with tie backs originally, I think when they
8 noticed the movement a while after they constructed
9 it, they noticed some movement and I think they
10 installed the tie backs then but I can't tell how
11 long they have been there.

12 Q Could you explain to the Court if
13 it was done subsequent the original construction,
14 how would that have taken place? How would the
15 construction of those tie backs have taken place?

16 A How would they do it after the
17 construction of the wall?

18 Q Yes.

19 A They would have excavated into the
20 driveway. The driveway that they had in the back,
21 excavate a spot where the poured concrete block is
22 going to be and anchor the tie back rod back into
23 those blocks.

24 Then, the front of the wall has a
25 plate, which is holding back, which is surfaced on

1 the front face of the wall. The rods go through the
2 wall, through the soil and onto a concrete block.

3 That is correctly done, I did not
4 see them, the rods are there.

5 Q In your in professional opinion, is
6 the bottom portion of the wall that is made of
7 stone stable?

8 A Yes, it appears to be stable.

9 Q With regard to the upper portion --

10 A The upper portion is stabilized
11 because there are tie backs holding it back. It had
12 moved in the center, I think I stated that before
13 but just the center was not aligned with the front
14 part of the stone wall and the two ends were still
15 lined up, just the middle had moved out.

16 Q Could you estimate the length of
17 that middle area that moved out?

18 A I should have measured it, I would
19 say approximately eight feet but at the widest part
20 it was three to four inches. It tapers out.

21 Q When you went out to the site to
22 inspect and evaluate the wall below, did you also
23 have an occasion to look at the wall and inspect it
24 from the upper portion?

25 A Yes.

1
2 were taken by the home owner with regard to any
3 repairs to that top area?

4 A Well, I was only there with Mr.
5 Annunziata and he showed me that the driveway had
6 been repaved a while ago. That day it was
7 completely full of leaves because it was after a
8 big rainstorm that we had.

9 So, the driveway had be repaired
10 and the front part of the wall was stucko. It did
11 not appear to be a resent stucko job but the
12 driveway had been repaired or so I was told.

13 Q So it was a new driveway?

14 A Relatively new driveway, then as
15 you face the house from the back of 5 Huguenot, it
16 was sloped that way.

17 Q To your left?

18 A To your left as you face the back
19 of the house.

20 Q So, if you are standing with the
21 wall behind you?

22 A It was sloped in that direction,
23 any water run off went this way.

24 Q Did you notice whether or not the
25 wheel stops were installed in the driveway?

1 A Yes, there were three or four wheel
2 stops there.

3 Q What is the purpose of wheel stops?

4 A I'm sorry.

5 Q What is the purpose of those wheel
6 stops?

7 A To stop a car short of bumping into
8 the overhang of the wall with the bumper.

9 MRS. MULLINS: I have nothing
10 further, Your Honor.

11 THE COURT: Okay.

12 THE COURT: Mrs. Fiore?

13 MRS. FIORE: Yes.

14 CROSS EXAMINATION BY MRS. FIORE:

15 Q Did you take any notes?

16 A Yes, I wrote a report and I took
17 pictures.

18 MRS. FIORE: I will object to the
19 witness entire testimony and that his
20 testimony be stricken. I was not given any
21 notice of a report or any provision that
22 Mr. Coppola-- of his findings and I would
23 object to his entire testimony.

24 MRS. MULLINS: Your Honor, I did not
25 even see the report myself and I certainly

1 did not provide it to her and I'm not
2 offering it, I am just merely offering the
3 testimony of Mr. Coppola's himself today
4 and based on that there is no reason to
5 strike any part of the his testimony.

6 MRS. FIORE: I would just add Your
7 Honor that the People were denied the
8 opportunity to provide their extra witness.

9 I'm working within the frame work of
10 a bureaucracy and the fact that the
11 Defendants had the opportunity to, get at
12 the last hour, another witness without
13 notice to the People.

14 THE COURT: The People had the
15 opportunity from July. The Defendant only
16 had an opportunity from October 17th.

17 MRS. FIORE: The People had an expert
18 available for the preparation of the case
19 as it went before Your Honor two or three
20 weeks ago.

21 Just because a notice of violation
22 or a summons has been issued, is there a
23 presumption that the case will go to trial
24 the fact that case has gone to trial, has
25 only been known--

1 THE COURT: I already explained my
2 perspective on that --

3 MRS. FIORE: And I understand, yet
4 I'm being prejudiced here --

5 THE COURT: You are not being
6 prejudiced --

7 MRS. FIORE: For the record, I'm
8 being prejudiced because not only did I not
9 have the opportunity to call my witness --

10 THE COURT: Do you have another
11 witness that you would like to call, if you
12 have other witness available that you would
13 like to call, certainly you may call
14 another witness.

15 MRS. FIORE: I'll see if the witness
16 is available to come to court and testify.
17 I could certainly make that inquiry.

18 THE COURT: You went ahead --

19 MRS. FIORE: I was trying to provide
20 the Defendants with the proper notice, with
21 the report, with the findings of an expert,
22 the courtesy of which I was not given and I
23 object strenuously to this witnesses's
24 testimony.

25 THE COURT: So there are two issues.

1 One, objection to the testimony of this
2 witness. That objection is unfounded
3 because the Defendant, in a criminal
4 proceeding, could put on more than one
5 witness if they want.

6 MRS. FIORE: Yes.

7 THE COURT: They choose to avail
8 themselves of evidence and testimony and I
9 gave them that opportunity to avail
10 themselves with the rights and privileges
11 in the United States Constitution the right
12 of criminal defendant in their trial.

13 Second, you have been in front of me
14 enough to know that when I say we are going
15 to have a trial, we are going to have a
16 trial.

17 MRS. FIORE: I'm not disputing that
18 issue, Your Honor. What I'm disputing is
19 that from the vantage point of the town,
20 it's not within the purview of the town
21 prosecutor to go and engage and retain
22 experts. If it were within my purview, I
23 certainly would have done that. It's not
24 within my jurisdiction to go out on behalf
25 of the town and start retaining structural

1 engineers, that is not my job.

2 THE COURT: But you know what, you
3 are missing the point of your roll as
4 representative --

5 MRS. FIORE: I'm not missing it.

6 THE COURT: It is late and now is not
7 the time for me to provide a seminar on
8 that topic.

9 MRS. FIORE: I'm not interested in
10 having a seminar nor do I need one. I have
11 been engaged with the town powers that be
12 and the responsible people who are
13 responsible for obtaining the expert
14 witness for this trial.

15 This witness has offered nothing
16 beyond the prior witnesses's testimony.
17 That was the grounds for my first
18 objection.

19 The second objection is, if you are
20 going to allow his testimony, the People
21 should be given the opportunity to provide
22 their witness who could rebut this
23 witness's testimony.

24 THE COURT: Okay, call the person
25 right now. You are excused. Do you have